

S.B. Civil Writ Petition NO.947/2005

Sr. Divisional Manager, LIC of India, Bikaner & Ors.

Vs

Anter Singh & Ors.

DATE OF ORDER : - 12.4.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. JL Purohit, for the petitioner.

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Heard learned counsel for the petitioner.

Facts in brief are that an insurance policy for Rs.1 lac was obtained for deceased Rajesh Kumar on 28th May, 2002. For this Life Insurance, the proposal was submitted on 14.8.2002. The LIC issued the policy to said Rajesh Kumar on 19.8.2002, which was effective from the same date. However, there is a provision for issuing policy from back date covering risk and on the basis of above clause, it is claimed that the policy become effective from 28th May, 2000. Said Rajesh Kumar died on 14th June, 2003. His cause of death was cancer.

When the claim was submitted for payment of the policy amount, the LIC denied the benefit to the nominee of Rajesh Kumar on the ground that the policy was obtained by suppressing the fact of illness of

Rajesh Kumar and, therefore, the claimants are not entitled for the relief. The claimants-non-petitioner submitted a petition before the permanent Lok Adalat and the permanent Lok Adalat vide order dated 6th Nov., 2004 held that the plea taken by the LIC that the deceased was suffering from some serious disease prior to 14.8.2002 has not been proved as the documents which have been placed on record are the Photostat copies of certain medical prescriptions, but containing no signature of incharge of the hospital etc. and no affidavit has been filed to prove the above documents. The other documents, which were obtained from the Bikaner were not supported by any affidavit of doctor of Medical Department. The permanent Lok Adalat directed Insurance Company to pay Rs. 1 lac alongwith interest @ 9% per annum. The petitioner is, therefore, aggrieved against the order dated 6th Nov., 2004.

At the outset it may be observed that the Insurance Policy was issued to the deceased Rajesh Kumar on 18.8.2002 on proposal, which was submitted by Rajesh Kumar on 14.8.2002. Therefore, there was a binding contract between the LIC and the insured Rajesh Kumar. Admittedly, the policy was not cancelled till 14th June, 2003 till the said Rajesh Kumar died or even thereafter, if it could have been cancelled by the LIC. So far as contention of the petitioner that Rajesh Kumar was sick prior to 14.8.2002 has been rejected by the permanent Lok Adalat

and that is a finding of fact and this Court is not inclined to re-appreciate the evidence, which has already been taken in account by the permanent Lok Adalat while deciding the complaint.

Apart from it, it will be worthwhile to mention here that it was the duty of the petitioner to obtain the medical report before issuing insurance policy and there is no explanation from the petitioner whether as per their own norms, they were supposed to obtain the medical report of the insured before issuing the insurance policy or not. Even if there was no provision even then that is a reason for which policy is issued and the illness of the insured is one of the most important fact, which is required to be investigated carefully by the LIC before issuing the policy and the person seeking insurance himself may be ignorant about his own sickness. On finding that he was sick even from the date before submitting the proposal for getting life insurance, but himself was not aware about his illness cannot be termed as a fraud committed by that party upon the insurer. After the death of that insured, it is very difficult to find out whether he was knowing the ailment and suppressed the fact from the LIC to commit any fraud.

There appears to be no reason for any indulgence in such matter in favour of the LIC when they themselves failed to take care in time and entered into contract of paying the policy amount to the surviving

person on death of insured.

In view of the above discussion, the writ petition of the petitioner is dismissed.

(Prakash Tatia), J.

c.p.goyal/-